

**ORDINANCE NO. 2004-08-19**

**AN ORDINANCE OF THE BOARD OF CLARK COUNTY COMMISSIONERS OF CLARK COUNTY, WASHINGTON, RELATING TO THE ESTABLISHMENT OF A TOURISM PROMOTION AREA, PROVIDING FOR THE COLLECTION OF A CHARGE ON THE FURNISHING OF LODGING BY ELIGIBLE LODGING BUSINESSES, PROVIDING FOR THE ADMINISTRATION OF THE CHARGE, AND OTHER MATTERS RELATED THERETO AND CREATING A NEW CHAPTER OF THE CLARK COUNTY CODE.**

**WHEREAS**, Chapter 35.101 RCW authorizes the establishment of a Tourism Promotion Area (“TPA”) by a city, county, or city and county jointly to permit collection of a Charge on the furnishing of lodging to fund the promotion of tourism and convention business within the TPA boundaries; and

**WHEREAS**, the operators of Eligible Lodging Businesses within Clark County (“County”) and the City of Vancouver (“City”) have presented an initiation petition to establish a TPA to the Board of Clark County Commissioners seeking to have the Board of Clark County Commissioners establish a combined City-County TPA, specifically including the unincorporated area within the jurisdiction of County and the incorporated area within the jurisdiction of City (“City-County TPA”) pursuant to Chapter 35.101 RCW; and

**WHEREAS**, the Board of Clark County Commissioners has the authority, pursuant to Chapter 35.101 RCW, to enter into an interlocal agreement (“Agreement”) with the City and the Southwest Washington Convention and Visitors Bureau (“CVB”), pursuant to the provisions of the initiation petition received from the operators of Eligible Lodging Businesses, to include within the boundaries of the proposed City-County TPA the area within the jurisdiction of the City and the unincorporated area within the jurisdiction of the County; and

**WHEREAS**, the Board of Clark County Commissioners adopted Resolution No. 2004-08-01 entitled, “A resolution expressing the intent of Clark County to establish a tourism promotion area (‘TPA’) as authorized under Chapter 35.101 RCW, including the unincorporated area of Clark County (‘County’) and the incorporated area of the City of Vancouver (‘City’),” as authorized under Chapter 35.101 RCW, at a Board of Clark County Commissioners meeting held on the 3<sup>rd</sup> day of August, 2004, pursuant to the request of the initiation petition submitted by the operators of Eligible Lodging Businesses

within the City and County, wherein Clark County adopted a resolution of intention to establish a TPA pursuant to the provisions set forth in, and as authorized by, Chapter 35.101 RCW, having boundaries to include the incorporated areas of the City and the unincorporated areas of County; and

**WHEREAS**, said Resolution was duly published in a newspaper of general circulation on July 22, 2004 and copies thereof were mailed to each Eligible Lodging Business in the proposed City-County TPA, as provided by law and the provisions of RCW 35.101.060; and

**WHEREAS**, the Board of Clark County Commissioners held a public hearing in the Board hearing room, 6<sup>th</sup> floor of the Public Services Center, 1300 Franklin Street, Vancouver, Washington 98666, at or about 10:00 a.m. on the 14<sup>th</sup> day of August, 2004 which was continued to the 31<sup>st</sup> day of August, 2004, pursuant to the provisions of 35.101.030 and 35.101.070 RCW, concerning the formation of the City-County TPA; and

**WHEREAS**, the City Council of City and the Board of Directors of CVB have authorized the execution of an Interlocal Agreement with Clark County to permit establishment of a City-County TPA, to include collection of a Charge from Eligible Lodging Businesses within the unincorporated area of County and incorporated area of City, and to forward all revenue collected thereby to the CVB.

**NOW, THEREFORE, BE IT ORDAINED** by Clark County, Washington that a new chapter of the Clark County Code to be codified as chapter 3.17 is adopted as follows:

#### **SECTION NO. 1: 3.17.010 SHORT TITLE**

The short title of this Chapter shall be “City-County TPA Ordinance.” This Chapter may be cited by its short title.

#### **SECTION NO. 2: 3.17.020 DEFINITIONS**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this ordinance.

A. “Agreement” means the Interlocal Cooperation Act Agreement between City, County, and CVB for the establishment of a City-County TPA by Clark County as authorized by 35.101.040(2) RCW.

B. “Area” means the geographical area comprising the unincorporated area under the jurisdiction of Clark County and the incorporated area under the jurisdiction of City of Vancouver.

C. “Charge” means the Charge imposed by Clark County on the furnishing of lodging by an Eligible Lodging Business within the City-County TPA.

- D. “City” means the City of Vancouver, Washington.
- E. “City-County TPA” means a TPA including the unincorporated area within the jurisdiction of County and the incorporated area within the jurisdiction of City established pursuant to Chapter 35.101 RCW.
- F. “County” means Clark County, Washington.
- G. “CVB” means the Southwest Washington Convention and Visitors Bureau.
- H. “Eligible Lodging Business” means a person that furnishes lodging taxable by the State of Washington under Chapter 82.08 RCW that has forty (40) or more lodging units, excluding all recreational vehicle parks and campgrounds.
- I. “Tourism Promotion” means activities and expenditures designed to increase tourism and convention business within the City-County TPA Area, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists, and operating tourism destination marketing organizations, or as the State Legislature may subsequently define Tourism Promotion by amending 35.101.010(4) RCW.
- J. “TPA” means tourism promotion area.
- K. “TPA Fund” means Tourism Promotion Area Fund, a special fund established with the Clark County Treasurer wherein all City-County TPA Charge revenue received by the County is deposited.

### **SECTION NO. 3: 3.17.030 ESTABLISHMENT OF TOURISM PROMOTION AREA**

There is hereby established a TPA Area having boundaries including the unincorporated area of County and the incorporated area of City (“City-County TPA”).

### **SECTION NO. 4: 3.17.040 DURATION**

This Chapter shall become effective on the effective date provided for herein and shall remain in effect so long as the Agreement is in full force and effect.

### **SECTION NO. 5: 3.17.050 CHARGE**

Effective December 1, 2004, there is hereby imposed a Charge on the furnishing of lodging at the rate of two dollars (\$2.00) per night of stay for all rooms on operators of Eligible Lodging Businesses within the TPA, except as exempted in Section 6 hereto. The Charge imposed under this section is not a

tax on the “sale of lodging” for the purposes of RCW 82.14.410. The Charge imposed under this section is in addition to the special assessments that may be levied under Chapter 35.87A RCW.

**SECTION NO. 6: 3.17.060 EXEMPTIONS TO CHARGE**

The following exemptions to the Charge shall be in place:

- A. All rooms provided on a complimentary basis.
- B. Any room that is exempt from paying state and local lodging taxes.

**SECTION NO. 7: 3.17.070 USE OF REVENUE COLLECTED**

Revenues received from the Charge imposed by County within the City-County TPA under this Ordinance shall be used for the purpose of providing funds to the CVB for Tourism Promotion, and shall be dedicated to the following uses and projects:

- A. General promotion of tourism within the Area as specified in the annually adopted CVB marketing plan; and
- B. Marketing of convention and trade shows, conference centers, convention centers, and exposition centers that benefit Area tourism and lodging businesses; and
- C. Marketing of Clark County and Vancouver to the travel industry in order to benefit Area tourism and lodging businesses; and
- D. Marketing of Clark County and Vancouver to recruit sporting events in order to benefit Area tourism and lodging businesses; and
- E. Marketing of Clark County and Vancouver to recruit all other tourism markets in order to benefit Area tourism and lodging businesses; and
- F. Marketing of all Area destinations in order to benefit Area tourism and lodging businesses.

**SECTION NO. 8: 3.17.080 ADMINISTRATION/COLLECTION**

A. Pursuant to RCW 39.34.030(4) the County Treasurer is hereby directed to establish the separate fund to be called the “TPA Fund”. All revenue received by the County from the Charge imposed under this Ordinance shall be deposited into the TPA Fund, which shall not lapse at the close of any budget cycle. All City-County TPA revenue deposited into the TPA Fund shall be forwarded to the CVB within twenty (20) days of receipt by the County.

B. The Charge shall be administered by the Washington State Department of Revenue and shall be collected by Eligible Lodging Businesses from those persons who are taxable by the State of Washington under chapter 82.02 RCW. The provisions of chapter 82.32 RCW apply to the Charge imposed herein.

**SECTION NO. 9: 3.17.090 CONTRACT WITH STATE OF WASHINGTON**

The County Administrator of County is hereby authorized to enter into contract(s) with the Washington State Department of Revenue for the administration and collection of the Charge imposed pursuant to this Ordinance.

**SECTION NO. 10: 3.17.100 DISESTABLISHMENT OF THE TPA**

A. Following the initial five-year (5-year) period from the effective date of this Ordinance, the operators of Eligible Lodging Businesses which paid over fifty percent (50%) of the Charges imposed within the City-County TPA during the preceding calendar year may file a petition with the Board of Clark County Commissioners requesting that the Board of Clark County Commissioners adopt a resolution of intention to disestablish the City-County TPA. The Board of Clark County Commissioners shall adopt such resolution and hold a hearing to determine whether to disestablish the City-County TPA. Signatures on such petition shall be those of duly authorized representatives of the operators of Eligible Lodging Businesses in the City-County TPA.

B. Following the initial five-year (5-year) period from the effective date of this Ordinance, the Board of Clark County Commissioners, by appropriate action, may provide for the disestablishment of the City-County TPA after adopting a resolution of intention to such effect. Such resolution shall indicate that it is the County's intention to disestablish the City-County TPA, and shall state the time and place of a public hearing to be held by the Board of Clark County Commissioners to consider the proposed action.

**SECTION NO. 11: 3.17.110 VIOLATION/PENALTIES**

Any person, firm, or corporation who fails or refuses to collect the Charge, as required under the terms of this Ordinance, with the intent to violate the provisions of this Ordinance or to gain some advantage or benefit, either directly or indirectly, and any lodger who refuses to pay any Charge due under this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the County jail for a maximum term fixed by the court of not more than ninety (90) days,

or by a fine in the amount fixed by the court of not more than \$1,000.00, or by both such imprisonment and fine. Provided, however, the penalty provided for under the terms of this Section shall be in addition to any other provisions provided for by law.

**SECTION NO. 12: 3.17.120 SEVERABILITY**

If any part or provision of this Ordinance, or its application to any person or circumstance is held invalid, it is the intent of the Board of Clark County Commissioners for Clark County that the remainder of this Ordinance, or its application of the provisions to other persons or circumstances, is not affected.

**SECTION NO. 13: 3.17.130 EFFECTIVE DATE**

This Ordinance shall be in full force and effect on December 1, 2004. Collection of the Charges shall commence on December 1, 2004.

**ADOPTED** this 31st day of August, 2004.

Attest:

BOARD OF CLARK COUNTY COMMISSIONERS  
FOR CLARK COUNTY, WASHINGTON

Louise Richards/s/  
Clerk to the Board

By: Betty Sue Morris/s/  
Betty Sue Morris, Chair

Approved as to Form Only

ARTHUR D. CURTIS

Prosecuting Attorney

By: \_\_\_\_\_  
Judie Stanton, Commissioner

Bronson Potter/s/

By Bronson Potter,

Senior Deputy Prosecuting Attorney

By \_\_\_\_\_  
Craig A. Pridemore, Commissioner